

State of Arizona  
House of Representatives  
Forty-fifth Legislature  
First Regular Session  
2001

CHAPTER 331

**HOUSE BILL 2190**

AN ACT

AMENDING SECTIONS 32-1701, 32-1702, 32-1704, 32-1706, 32-1721, 32-1722, 32-1723, 32-1724, 32-1726, 32-1727, 32-1728, 32-1742, 32-1743, 32-1744, 32-1746, 32-1747 AND 32-1751, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 16, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-1745; AMENDING LAWS 1999, FIRST SPECIAL SESSION, CHAPTER 1, SECTION 71; RELATING TO THE BOARD OF OPTOMETRY.

(TEXT OF BILL BEGINS ON NEXT PAGE)



Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 32-1701, Arizona Revised Statutes, is amended to read:

32-1701. Definitions

In this chapter, unless the context otherwise requires:

1. "Board" means the state board of optometry.

2. "Conviction" means a judgment of conviction by any state or federal court of competent jurisdiction in a criminal cause, regardless of whether an appeal is pending or could be taken, and includes any judgment or order based on a plea of no contest.

3. "License" "LICENSEE" means a ~~license~~ PERSON LICENSED to practice the profession of optometry PURSUANT TO THIS CHAPTER.

4. "Licensed Optometrist" or "doctor of optometry" means a person ~~holding a license to practice the profession of optometry in this state WHO~~ HAS GRADUATED FROM AN ACCREDITED COLLEGE OF OPTOMETRY.

5. "Pharmaceutical" or "pharmaceutical agent" means a prescription or nonprescription substance or a schedule III controlled substance used for examination, diagnosis or treatment of conditions of the human eye and its adnexa.

6. "Practice of the profession of optometry" means:

(a) The examination or refraction of the human eye and its appendages and the employment of any objective or subjective means or methods other than surgery for the purpose of diagnosing or treating ~~with pharmaceutical agents~~ any visual, muscular, neurological or anatomical anomalies of the eye.

(b) THE USE OF PHARMACEUTICAL AGENTS AUTHORIZED PURSUANT TO THIS CHAPTER.

(c) The use of any instrument or device to train the visual system or correct any abnormal condition of the eye or eyes and.

(d) The prescribing, fitting or employment of any lens, prism, frame or mountings for the correction or relief of or aid to the visual function, provided that superficial foreign bodies may be removed from the eye and its appendages.

(e) The taking of smears of the human eye and its adnexa for culture analysis and the ordering or performing of clinical tests that are appropriate to diagnose, treat or manage conditions of the human eye and its adnexa and that are limited to those ~~clia-waived~~ CLIA-waived clinical tests approved pursuant to 42 Code of Federal Regulations section 493.15.

7. "Surgery" means, in reference to the human eye and its appendages, an invasive procedure in which in vivo human tissue is cut, burned, vaporized, removed, coagulated or photodisrupted by use of an electrical cautery, a scalpel, a cryoprobe, a laser or ionizing radiation. Surgery does not include nonsurgical procedures including the removal of superficial foreign bodies or eyelashes or the use of lasers for diagnostic purposes.

8. "Unprofessional conduct" means:

1 (a) Wilful betrayal of a professional secret or wilful violation of  
2 a privileged communication except as otherwise required by law.

3 ~~(b) Giving or receiving rebates.~~

4 (b) CHARGING A FEE FOR SERVICES NOT RENDERED OR DIVIDING A  
5 PROFESSIONAL FEE FOR PATIENT REFERRALS AMONG HEALTH CARE PROVIDERS OR HEALTH  
6 CARE INSTITUTIONS OR BETWEEN THESE PROVIDERS AND INSTITUTIONS OR A  
7 CONTRACTUAL ARRANGEMENT THAT HAS THE SAME EFFECT. THIS SUBDIVISION DOES NOT  
8 PROHIBIT A BONA FIDE LEASE BASED ON THE REVENUES EARNED BY A LICENSEE.

9 (c) Addiction to, or illegal use of, narcotic drugs or use of  
10 intoxicating beverages to excess or practicing or attempting to practice the  
11 profession of optometry while under the influence of intoxicating beverages  
12 or narcotic drugs.

13 (d) Impersonating another ~~licensed optometrist~~ LICENSEE.

14 (e) Knowingly having professional connection with or lending one's  
15 name to a person who is not a ~~licensed optometrist~~ LICENSEE.

16 (f) Gross negligence, repeated or continuing acts of negligence or  
17 incompetence in the practice of optometry.

18 (g) Any conduct or practice, including incompetency, ~~which~~ THAT  
19 constitutes a danger to the health, welfare or safety of patients or the  
20 public.

21 (h) Prescribing, dispensing or pretending to use any secret means,  
22 methods, device or instrumentality.

23 (i) Refusing to divulge to the board upon ON demand the means,  
24 methods, device or instrumentality used for optometric examination or  
25 therapy.

26 (j) Representing that a manifestly not correctable condition can be  
27 permanently corrected or that a correctable condition can be corrected within  
28 a stated time if this is not accurate.

29 (k) Knowingly making any false or fraudulent statement, written or  
30 oral, in connection with the practice of the profession of optometry.

31 (l) Failing to comply with a board order or consent agreement.

32 (m) Fraud, forgery, unsworn falsification, false swearing or perjury  
33 involving a matter before the board or a written instrument submitted to the  
34 board.

35 (n) Wilfully and without legal justification failing to furnish in a  
36 timely manner information ~~which~~ THAT is necessary for the board to conduct  
37 an investigation under this chapter and ~~which~~ THAT has been requested or  
38 subpoenaed by the board.

39 (o) Conduct that discredits the profession.

40 (p) Sexual intimacies with a patient in the course of care or  
41 treatment.

42 (q) Falsely claiming attendance at a required continuing education  
43 course.

1       Sec. 2. Section 32-1702, Arizona Revised Statutes, is amended to read:  
2       32-1702. Board of optometry; appointment; qualifications; term;  
3               removal

4       A. There is established a state board of optometry which consists of  
5 six members appointed by the governor. Terms of office are for four years  
6 expiring on July 1 of the respective year. Four members shall have been  
7 licensed and engaged in the active practice of the profession of optometry  
8 in this state for at least three years immediately prior to appointment, one  
9 member shall be a physician licensed pursuant to chapter 13 or 17 of this  
10 title, and one member shall be a lay person with no interest, direct or  
11 indirect, in the practices of optometry, opticianry or medicine.

12       B. The governor may remove any professional member for incompetency  
13 or unprofessional conduct or when his license has been revoked or suspended  
14 or when he has been censured or placed on probation. The governor may remove  
15 any member for neglect of duty or improper conduct. The unexcused absence  
16 of a member for more than two consecutive meetings is justification for  
17 removal. Appointment by the governor to fill a vacancy caused other than by  
18 expiration of a term is for the unexpired portion of the term.

19       C. A member of the board is ineligible to serve more than two  
20 consecutive full terms. The completion of the unexpired portion of a full  
21 term does not constitute a full term for purposes of this subsection.

22       D. THE BOARD SHALL CONDUCT REGULAR MEETINGS AT LEAST SIX TIMES EACH  
23 YEAR AT TIMES AND PLACES DESIGNATED BY THE BOARD OR THE GOVERNOR. SPECIAL  
24 MEETINGS MAY BE CALLED THAT THE PRESIDENT DETERMINES ARE NECESSARY TO CARRY  
25 OUT THE FUNCTIONS OF THE BOARD, INCLUDING MEETINGS USING COMMUNICATIONS  
26 EQUIPMENT THAT ALLOWS ALL MEMBERS PARTICIPATING IN THE MEETINGS TO HEAR EACH  
27 OTHER.

28       E. A MAJORITY OF THE MEMBERS OF THE BOARD CONSTITUTES A QUORUM AND A  
29 MAJORITY VOTE OF A QUORUM PRESENT AT ANY MEETING GOVERNS ALL ACTIONS TAKEN  
30 BY THE BOARD.

31       Sec. 3. Section 32-1704, Arizona Revised Statutes, is amended to read:  
32       32-1704. Powers and duties of the board

33       A. The board shall adopt, and may amend, rules consistent with this  
34 chapter governing the practice of the profession of optometry, for the  
35 performance of its duties under this chapter and for the examination of  
36 applicants for licenses. The board shall adopt and use a seal, administer  
37 oaths and take testimony concerning any matter within its jurisdiction.

38       B. The board may not adopt a rule which THAT:

39       1. Regulates A LICENSEE'S fees or charges ~~of a doctor of optometry~~ to  
40 a patient.

41       2. Regulates the place in which a ~~doctor of optometry~~ LICENSEE may  
42 practice.

43       3. Prescribes the manner or method of accounting, billing or  
44 collection of fees.

1        4. Prohibits advertising by a doctor of optometry LICENSEE unless such  
2 THE advertising is inconsistent with section 44-1481.

3        C. The board shall maintain its records in accordance with a retention  
4 schedule approved by the Arizona state library, archives and public records.

5        D. The board may SHALL adopt administrative rules providing for  
6 criteria for ~~approving programs of~~ IT MUST USE TO APPROVE continuing  
7 education PROGRAMS for doctors of optometry LICENSEES. Programs shall be  
8 designed to assist doctors of optometry LICENSEES to maintain competency, to  
9 become aware of new developments in the practice of the profession of  
10 optometry and to increase management skills and administrative efficiency.  
11 The board shall approve programs meeting its adopted THAT MEET THESE  
12 criteria.

13        E. The board may hire an executive director as an employee of the  
14 board. The executive director is responsible for the performance of the  
15 regular administrative functions of the board and such other administrative  
16 duties as the board may direct. The executive director is eligible to  
17 receive compensation in an amount as determined pursuant to section 38-611.

18        F. The board may hire or contract with investigators to assist in the  
19 investigation of violations of this chapter, hire other employees required  
20 to carry out this chapter and contract with other state agencies when  
21 required to carry out this chapter.

22        G. The board may:

23        1. Appoint advisory committees.

24        2. Issue subpoenas for the attendance of witnesses and the production  
25 of books, records, documents and other evidence it deems relevant to an  
26 investigation or hearing.

27        3. Charge reasonable fees for materials it has printed at its own  
28 expense.

29        4. DELEGATE TO THE EXECUTIVE DIRECTOR, BOARD STAFF AND PERSONS WITH  
30 WHOM THE BOARD CONTRACTS THE BOARD'S LICENSING AND REGULATORY DUTIES. THE  
31 BOARD SHALL ADOPT RULES FOR EACH SPECIFIC LICENSING AND REGULATORY DUTY THE  
32 BOARD DELEGATES PURSUANT TO THIS PARAGRAPH.

33        H. A PERSON WHO IS AGGRIEVED BY AN ACTION TAKEN BY THE EXECUTIVE  
34 DIRECTOR, BOARD STAFF OR PERSON WITH WHOM THE BOARD CONTRACTS MAY REQUEST THE  
35 BOARD TO REVIEW THAT ACTION BY FILING WITH THE BOARD A WRITTEN REQUEST WITHIN  
36 THIRTY DAYS AFTER THAT PERSON IS NOTIFIED OF THE EXECUTIVE DIRECTOR'S ACTION  
37 BY PERSONAL DELIVERY OR CERTIFIED MAIL TO THAT PERSON'S LAST KNOWN RESIDENCE  
38 OR PLACE OF BUSINESS. AT THE NEXT REGULAR BOARD MEETING, THE BOARD SHALL  
39 REVIEW THE ACTION TAKEN BY THE EXECUTIVE DIRECTOR, BOARD STAFF OR PERSON WITH  
40 WHOM THE BOARD CONTRACTS. ON REVIEW, THE BOARD SHALL APPROVE, MODIFY OR  
41 REJECT THE ACTION.

42        Sec. 4. Section 32-1706, Arizona Revised Statutes, is amended to read:  
43        32-1706. Use of pharmaceutical agents

44        A. A certified licensee may prescribe, dispense and administer  
45 over-the-counter pharmaceuticals and topical prescription pharmaceuticals

1 SUBJECT TO THE PHARMACEUTICAL AGENT CLASSIFICATIONS SPECIFIED IN SECTION  
2 32-1728.

3 B. A certified licensee may prescribe, dispense and administer the  
4 following oral prescription pharmaceuticals SUBJECT TO THE PHARMACEUTICAL  
5 AGENT CLASSIFICATIONS SPECIFIED IN SECTION 32-1728:

6 1. Antibiotics classified as tetracycline and its derivatives,  
7 cephalosporins, penicillin and its derivatives and erythromycin ERYTHROMYCIN,  
8 azithromycin and clarithromycin. A licensee may prescribe these antibiotics  
9 for any one patient for each occurrence for a period not more than the day  
10 limit recommended by the manufacturer or by the physicians' desk reference.  
11 If the patient's condition is other than blepharitis and does not improve  
12 during the first seventy-two hours of treatment by means of an oral  
13 antibiotic, the licensee shall consult with the patient's primary care  
14 physician or other family physician for the purpose of referral of the  
15 patient to a physician who specializes in OPHTHALMOLOGY, infectious diseases,  
16 internal medicine or neurology. After the referral has been made, the  
17 licensee shall consult with the specialist. The licensee shall note the  
18 consultation in the patient's file. If the treatment is by oral antibiotics  
19 for blepharitis and if the patient's condition does not improve during the  
20 first ten days of treatment, the licensee shall request the patient's primary  
21 care physician or other family physician to refer the patient to a physician  
22 who specializes in OPHTHALMOLOGY, infectious diseases, internal medicine or  
23 neurology. On notification of the referral the licensee shall consult with  
24 the specialist. The licensee shall note the consultation in the patient's  
25 file. If the condition is not resolved at the end of the normal treatment  
26 period, the licensee shall request the patient's primary care physician or  
27 other family physician to refer the patient to a physician who specializes  
28 in OPHTHALMOLOGY, infectious diseases, internal medicine or neurology. On  
29 notification of the referral the licensee shall consult with the  
30 specialist. The licensee shall note the consultation in the patient's file.  
31 A licensee shall not prescribe, dispense or administer an oral antibiotic to  
32 a person who is under six years of age. For the purpose of this paragraph,  
33 "physician" means a person who is licensed pursuant to chapter 13 or 17 of  
34 this title.

35 2. Antihistamines. A licensee may prescribe an antihistamine for not  
36 more than seven days for any one patient. The licensee shall request the  
37 patient's primary care physician or other family physician who is licensed  
38 pursuant to chapter 13 or 17 of this title to refer the patient. The  
39 licensee may prescribe only the following prescription antihistamines:

- 40 (a) Cetirizine.  
41 (b) Loratadine.  
42 (c) Fexofenadine.

43 3. Nonprescription nonsteroidal anti-inflammatory agents. A licensee  
44 may prescribe, dispense and administer these agents in dosages that exceed

1 over-the-counter dosages but that do not exceed maximum dosages of  
2 counterpart prescription nonsteroidal anti-inflammatory agents.

3 C. A licensee may prescribe, dispense and administer a schedule III  
4 controlled substance only if it is an analgesic.

5 D. A licensee shall not prescribe, dispense or administer the  
6 following prescription substances:

- 7 1. An oral steroid.
- 8 2. An oral antifungal.
- 9 3. An oral antiviral.
- 10 4. An oral carbonic anhydrase inhibitor.
- 11 5. An oral antimetabolite.
- 12 6. An oral immunosuppressive.
- 13 7. A substance administered intravenously.
- 14 8. Except as provided in subsection E, substances administered by  
15 injection.
- 16 9. A schedule I, II, IV or V controlled substance.
- 17 10. An oral agent for the treatment of closed angle glaucoma attack.
- 18 11. Except as provided in subsection B, paragraph 3, an oral  
19 nonsteroidal anti-inflammatory agent.

20 E. A licensee may use epinephrine auto-injectors to counteract an  
21 anaphylactic reaction. A licensee who uses auto-injectors may order and  
22 maintain anaphylactic-related supplies. The board shall require a licensee  
23 to maintain in the licensee's office medically necessary supportive equipment  
24 and supplies that are used in connection with the treatment of an  
25 anaphylactic reaction including oxygen equipment, airway maintenance  
26 equipment or other necessary equipment consistent with the prevailing  
27 standard of care as specified by the board.

28 Sec. 5. Section 32-1721, Arizona Revised Statutes, is amended to read:

29 32-1721. Persons and acts not affected by this chapter

30 This chapter does not apply to:

- 31 1. Physicians and surgeons duly licensed to practice medicine and  
32 surgery in this state, if they are practicing lawfully.
- 33 2. Dispensing opticians duly licensed to practice, if they are  
34 practicing lawfully in accordance with the provisions of section 32-1671.
- 35 3. The sale of complete ready-to-wear eyeglasses as merchandise from  
36 a permanently established place of business.
- 37 4. A LICENSED OR UNLICENSED INDIVIDUAL PERFORMING DUTIES DELEGATED  
38 UNDER THE AUTHORITY OF A LICENSEE.

39 Sec. 6. Section 32-1722, Arizona Revised Statutes, is amended to read:

40 32-1722. Qualifications of applicant; applications

41 A. A person of good moral character, desiring to engage in the  
42 practice of the profession of optometry, shall file with the board not less  
43 than thirty days prior to BEFORE the date on which an examination is to be  
44 held a verified application with the required application fee, ~~which shall~~  
45 show THAT INCLUDES:

- 1           1. The applicant's name, age and address.
- 2           2. DOCUMENTATION OF graduation from a university or college teaching
- 3 the profession of optometry and accredited by a nationally accepted
- 4 accrediting body on optometric education.
- 5           3. DOCUMENTATION OF satisfactory completion of ~~a~~ AN EQUIVALENT course
- 6 of study approved by the board in didactic education, pharmacology and
- 7 clinical training in the examination, diagnosis and treatment of conditions
- 8 of the human eye and its adnexa that total EITHER:
- 9           (a) MEETS THE CONTEMPORARY EDUCATIONAL REQUIREMENTS AT COLLEGES OF
- 10 OPTOMETRY IN THE UNITED STATES.
- 11           (b) TOTALS at least one hundred twenty hours ~~in addition to~~.
- 12           4. DOCUMENTATION OF the successful passage of a written examination
- 13 as prescribed by the board.
- 14           ~~4.~~ 5. Background information on a form prescribed by the attorney
- 15 general for the purpose of conducting an investigation into the existence of
- 16 prior arrests and convictions.
- 17           6. DISCLOSURE OF ANY INVESTIGATION CONDUCTED OR PENDING BY AN
- 18 OPTOMETRIC REGULATORY BOARD IN ANOTHER JURISDICTION IN THE UNITED STATES.
- 19           B. Upon ON receipt of an application in proper form and containing the
- 20 information prescribed in subsection A of this section, the board may have
- 21 an investigation made of the applicant's character, ability and experience.
- 22           C. For the purposes of such AN investigation CONDUCTED PURSUANT TO
- 23 SUBSECTION B OF THIS SECTION, the board may subpoena witnesses, administer
- 24 oaths and take testimony with respect to the character of the applicant or
- 25 to any matter affecting the application at a hearing held after sufficient
- 26 notice has been given.
- 27           D. If the board finds that the applicant has passed the examination
- 28 provided for under section 32-1723 or 32-1724, and that the applicant's
- 29 character, ability and experience are satisfactory, the board shall issue a
- 30 license.
- 31           ~~E. Every application shall be approved or denied within ninety days~~
- 32 ~~from the filing date or, if a hearing is held, within thirty days from the~~
- 33 ~~close of hearing.~~
- 34           Sec. 7. Section 32-1723, Arizona Revised Statutes, is amended to read:
- 35           32-1723. Licensure by endorsement
- 36           A. ~~A person who presents to the board a certified copy of or a license~~
- 37 ~~in good standing which was issued after examination by a board of~~
- 38 ~~registration in the profession of optometry in any other state where the~~
- 39 ~~requirements for licensure are, in the opinion of the board, equivalent to~~
- 40 ~~those of this state shall be licensed in this state without a written~~
- 41 ~~examination but shall be given a practical and oral examination subject to~~
- 42 ~~all of the following:~~
- 43           ~~1. That such state accords like privileges to holders of licenses~~
- 44 ~~issued in this state.~~



1 THE BOARD SHALL WAIVE THE WRITTEN EXAMINATION REQUIREMENTS OF THIS  
2 CHAPTER IF ALL OF THE FOLLOWING ARE TRUE:

3 1. THE APPLICANT SUBMITS A LICENSE OR A CERTIFIED COPY OF A LICENSE  
4 TO PRACTICE OPTOMETRY ISSUED BY THE REGULATORY BOARD OF ANOTHER JURISDICTION  
5 OF THE UNITED STATES THAT HAS LICENSURE REQUIREMENTS THAT THE BOARD  
6 DETERMINES MEET OR EXCEED THE REQUIREMENTS OF THIS CHAPTER.

7 2. THE APPLICANT PASSES A PRACTICAL EXAMINATION AS DETERMINED BY THE  
8 BOARD.

9 ~~2.~~ 3. The license of the applicant ~~shall~~ HAS not have been suspended  
10 or revoked by any other state LICENSING JURISDICTION OF THE UNITED STATES for  
11 any cause which THAT is a basis of GROUND FOR suspension or revocation of a  
12 license under this chapter.

13 ~~3.~~ 4. The applicant has not previously failed to pass the examination  
14 in this state subsequent to his AFTER THE APPLICANT'S admission to practice  
15 in such THE other state LICENSING JURISDICTION.

16 ~~4.~~ 5. The applicant has been engaged in the practice of the  
17 profession of optometry continuously in such state THE OTHER LICENSING  
18 JURISDICTION for not less than four of the five years immediately preceding  
19 his THE application.

20 ~~5. The applicant intends to reside and practice the profession of~~  
21 ~~optometry in this state.~~

22 6. THE INFORMATION PROVIDED BY NATIONAL DATA BANKS DESIGNATED BY THE  
23 BOARD HAS SUCCESSFULLY VERIFIED THE APPLICANT.

24 ~~6.~~ 7. The applicant offers proof of satisfactory completion of a AN  
25 EQUIVALENT course of study in clinical pharmacology THAT IS approved by the  
26 board AND THAT MEETS THE CONTEMPORARY EDUCATIONAL REQUIREMENTS AT COLLEGES  
27 OF OPTOMETRY IN THE UNITED STATES OR THAT TOTALS AT LEAST ONE HUNDRED TWENTY  
28 HOURS.

29 8. THE APPLICANT OFFERS PROOF OF PASSING AN EXAMINATION APPROVED BY  
30 THE BOARD IN THE TREATMENT AND MANAGEMENT OF OCULAR DISEASE.

31 ~~7.~~ 9. The applicant meets the requirements of section 32-1722  
32 concerning good moral character.

33 ~~8. Subsection A of this section applies only to those persons coming~~  
34 ~~into this state to open a permanent office within one hundred eighty days~~  
35 ~~from the date a license is issued.~~

36 Sec. 8. Section 32-1724, Arizona Revised Statutes, is amended to read:

37 32-1724. Examination of applicants; time of examination

38 A. Licensing examinations shall be conducted and graded according to  
39 rules prescribed by the board. The board shall not grade examinations on a  
40 curve.

41 B. The board may give applicants a written examination on subjects  
42 currently being taught in universities or colleges of optometry as well as  
43 on this state's statutes and rules relating to the practice of optometry. In  
44 lieu of its written examination for licensure, the board may accept  
45 documentation from the national board of examiners in optometry that shows

1 that an applicant has passed board designated parts of the national board's  
2 examination not more than five years before January 1 of the year the  
3 applicant applies for licensure pursuant to section 32-1722. To receive a  
4 passing grade on a written examination administered by the board, an  
5 applicant shall receive a grade of not less than seventy-five per cent on the  
6 whole written examination and not less than fifty per cent in any one  
7 subject.

8 C. The board ~~shall~~ MAY give applicants a practical examination on  
9 subjects currently being taught in universities or colleges of optometry and  
10 SHALL GIVE AN EXAMINATION on this state's statutes and rules relating to  
11 optometry. To receive a passing grade on a practical examination, an  
12 applicant shall receive a grade of not less than seventy-five per cent.

13 D. Examinations shall be held at least once each year in this state  
14 at times and places the board designates. Notice of examination EXAMINATIONS  
15 shall be given not less than sixty days prior to BEFORE the date of  
16 examination. The board shall adopt rules to establish conditions under which  
17 an applicant who is unable to take the examination and who notifies the board  
18 prior to BEFORE the date fixed for the examination may take the next  
19 examination.

20 Sec. 9. Section 32-1726, Arizona Revised Statutes, is amended to read:

21 32-1726. Renewal of license; continuing education; failure to  
22 renew

23 ~~A. A license remains in effect until August 31 of every odd-numbered~~  
24 ~~year succeeding the year the license is issued, unless sooner suspended or~~  
25 ~~revoked. On payment of a renewal fee and completion of a renewal form as~~  
26 ~~prescribed and provided by the board, a license is renewable by a licensee~~  
27 ~~every two years and thereafter for an additional two year period. Failure~~  
28 ~~to pay the renewal fee on or before August 31 of the year in which the~~  
29 ~~renewal comes due voids the license.~~

30 A. BEGINNING ON SEPTEMBER 1, 2001, A LICENSEE WHO WISHES TO RENEW A  
31 LICENSE MUST DO SO EVERY OTHER YEAR ON OR BEFORE THE LICENSEE'S BIRTHDAY BY  
32 SUBMITTING A COMPLETED RENEWAL FORM AND THE RENEWAL FEE PRESCRIBED BY THE  
33 BOARD. A LICENSEE WHO DOES NOT RENEW A LICENSE WITHIN THIRTY DAYS AFTER THE  
34 LICENSEE'S BIRTHDAY MUST ALSO PAY A LATE FEE AS PRESCRIBED BY THE BOARD. A  
35 LICENSE EXPIRES IF THE LICENSEE DOES NOT RENEW THE LICENSE WITHIN FOUR MONTHS  
36 AFTER THE LICENSEE'S BIRTHDAY. A PERSON WHO PRACTICES OPTOMETRY IN THIS  
37 STATE AFTER THAT PERSON'S LICENSE HAS EXPIRED IS IN VIOLATION OF THIS  
38 CHAPTER.

39 B. As a condition of renewal or reinstatement each doctor of optometry  
40 LICENSEE shall complete THIRTY-TWO HOURS OF continuing education which is  
41 approved by the board and which is designed to educate the licensee in  
42 current developments, skills, procedures or treatment related to the practice  
43 of optometry in such amount and during such period as the board may establish  
44 AS PRESCRIBED BY THE BOARD. The board shall require continuing education on  
45 the subject of pharmaceutical use for doctors who are certified AUTHORIZED

1 by the board to prescribe, dispense, and administer pharmaceuticals. The  
2 board may waive or adjust the continuing education requirements for good  
3 cause shown.

4 ~~C. A doctor of optometry whose license has been voided under this~~  
5 ~~section shall not be reinstated except upon TO REINSTATE AN EXPIRED LICENSE~~  
6 ~~A PERSON MUST SUBMIT A written application and payment of PAY all delinquent~~  
7 ~~biennial fees, plus penalties of ALL LATE FEES AND A fifty dollars a DOLLAR~~  
8 ~~PENALTY FEE FOR EACH year THE LICENSE REMAINS UNRENEWED. THE BOARD SHALL NOT~~  
9 ~~REQUIRE THE APPLICANT TO PASS AN INITIAL LICENSING EXAMINATION if the~~  
10 ~~application for reinstatement of the license is made and all delinquent and~~  
11 ~~renewal fees and penalties are paid APPLICANT MEETS THE REQUIREMENTS OF THIS~~  
12 ~~SUBSECTION within five years after the license has been voided, an initial~~  
13 ~~licensing examination shall not be required EXPIRED.~~

14 D. A person holding a license to practice the profession of optometry  
15 in this state who has not engaged in the practice of the profession of  
16 optometry within a five year period shall pass an initial licensing  
17 examination before the license is renewed.

18 Sec. 10. Section 32-1727, Arizona Revised Statutes, is amended to  
19 read:

20 32-1727. Fees

21 A. The following fees shall be paid to the board:

22 1. For Filing an application for examination, one hundred fifty  
23 dollars.

24 2. License fee or issuance fee, ~~not to exceed two hundred dollars in~~  
25 ~~even-numbered years and four hundred dollars in odd-numbered years AS~~  
26 ~~ESTABLISHED BY THE BOARD.~~

27 3. Renewal of a license to practice the profession of optometry, ~~not~~  
28 ~~to exceed four hundred dollars AS ESTABLISHED BY THE BOARD.~~

29 4. LATE RENEWAL OF A LICENSE AS ESTABLISHED BY THE BOARD.

30 ~~4.~~ 5. Application for a license by reciprocity ENDORSEMENT, three  
31 hundred dollars.

32 ~~5.~~ 6. Duplicate license fee, thirty dollars.

33 ~~6.~~ 7. Certificates of special qualification, twenty dollars.

34 ~~7.~~ 8. Duplicate certificates of special qualification, twenty  
35 dollars.

36 ~~8.~~ 9. Optometry statute pamphlet fee, five dollars.

37 B. Fees are not refundable.

38 Sec. 11. Section 32-1728, Arizona Revised Statutes, is amended to  
39 read:

40 32-1728. Pharmaceutical agents; certification; use; course of  
41 study

42 A. A LICENSEE INITIALLY LICENSED AFTER THE EFFECTIVE DATE OF THE  
43 AMENDMENT TO THIS SECTION, A LICENSEE LICENSED BY ENDORSEMENT AFTER THE  
44 EFFECTIVE DATE OF THE AMENDMENT TO THIS SECTION OR A LICENSEE WHO PASSED AN  
45 EXAMINATION CONDUCTED BY THE BOARD FOR THE USE OF ORAL PHARMACEUTICAL AGENTS

1 BEFORE THE EFFECTIVE DATE OF THE AMENDMENT TO THIS SECTION MAY PRESCRIBE,  
2 DISPENSE AND ADMINISTER A PHARMACEUTICAL AGENT SUBJECT TO THE LIMITATIONS  
3 PROVIDED IN THIS CHAPTER.

4 ~~A.~~ B. The board may ~~issue a certificate of special qualification to~~  
5 REISSUE A CERTIFICATE FOR RENEWAL FOR THE use OF PHARMACEUTICAL AGENTS FOR  
6 topical diagnostic or topical therapeutic pharmaceutical agents, or both, to  
7 a person who ~~meets the education requirements of section 32-1722, subsection~~  
8 ~~A, paragraph 3~~ HOLDS AN EXISTING CERTIFICATE ISSUED ON OR BEFORE THE  
9 EFFECTIVE DATE OF THE AMENDMENT TO THIS SECTION and who pays the certificate  
10 of special qualification fee prescribed in section 32-1727. THE CERTIFICATE  
11 MAY SPECIFY THE FOLLOWING:

12 1. USE OF NO DRUGS.

13 2. USE OF TOPICAL DIAGNOSTIC AGENTS.

14 3. USE OF TOPICAL DIAGNOSTIC AND THERAPEUTIC AGENTS.

15 ~~B.~~ C. The board may issue a certificate of special qualification to  
16 ~~use oral~~ PRACTICE OPTOMETRY WITHOUT THE USE OF pharmaceutical agents to a  
17 person who ~~meets the qualifications established for certification~~ HOLDS A  
18 CURRENT LICENSE AS OF JULY 1, 2000 and who pays the certificate of special  
19 qualification fee prescribed in section 32-1727.

20 ~~C.~~ D. The state board of optometry shall adopt a course of study for  
21 certification to use oral pharmaceuticals after consultation with colleges  
22 of optometry accredited by a nationally accepted accrediting body on  
23 optometric education and with the college of pharmacy at the university of  
24 Arizona. The board shall design and implement the course in a manner that  
25 requires optometrists A LICENSEE who wish WISHES to have the privilege of  
26 dispensing, prescribing and administering topical and oral pharmaceutical  
27 agents pursuant to this chapter to meet the contemporary educational  
28 requirements related to pharmaceuticals authorized for licensees pursuant to  
29 this chapter at colleges of optometry in the United States and to demonstrate  
30 competence in dispensing, prescribing and administering those topical or oral  
31 pharmaceutical agents by passing examinations in those areas commensurate  
32 with doctoral candidates in colleges of optometry in the United States. The  
33 course of study shall teach and certify competence in the prescription and  
34 administration of topical or oral pharmaceutical agents pursuant to this  
35 chapter. The board shall adopt the course of study and completion  
36 requirements to reflect the current course of study and demonstrated  
37 competence level of pharmacy programs in colleges of optometry in the United  
38 States. The board may offer a course and examination that otherwise meets  
39 the requirements of this subsection and that is limited to oral  
40 pharmaceuticals for licensees who hold a valid diagnostic and therapeutic  
41 topical pharmaceutical permit issued pursuant to subsection A of this  
42 section.

43 ~~D.~~ E. The state board of optometry shall adopt a uniform prescription  
44 form for use by all optometrists LICENSEES who have the privilege to  
45 prescribe, dispense and administer topical pharmaceuticals or oral

1 pharmaceuticals. The prescription form shall indicate the prescribing  
2 authority of the optometrists LICENSEES and whether the authority includes  
3 oral and PHARMACEUTICALS, topical pharmaceuticals OR BOTH ORAL  
4 PHARMACEUTICALS AND TOPICAL PHARMACEUTICALS, ~~topical diagnostic~~  
5 ~~pharmaceuticals only or topical diagnostic and therapeutic pharmaceuticals~~  
6 only. The form shall include the name, address, telephone number,  
7 telefacsimile FAX number and professional license number for OF the  
8 optometrist LICENSEE.

9 E. F. Annually on or before January 1 the state board of optometry  
10 shall mail to the Arizona state board of pharmacy the list of all  
11 optometrists LICENSEES who have been certified to prescribe, dispense and  
12 administer either oral pharmaceuticals or topical pharmaceuticals, or both.  
13 Within thirty days of any additional certification by the state board of  
14 optometry, the state board of optometry shall provide updated lists to the  
15 Arizona state board of pharmacy. At the same time the state board of  
16 optometry shall send the list to each licensed pharmacy in Arizona, excluding  
17 hospital pharmacies, long-term care pharmacies and infusion pharmacies.

18 ~~F. The board may charge a fee for a certificate issued pursuant to~~  
19 ~~this section.~~

20 Sec. 12. Section 32-1742, Arizona Revised Statutes, is amended to  
21 read:

22 32-1742. Registering with board; public registry file; current  
23 information

24 A. ~~A holder of a license~~ EACH LICENSEE shall notify PROVIDE the board  
25 ~~by certified mail of IN WRITING the place where he is practicing or intends~~  
26 ~~to begin practice and of any subsequent change of his regular office~~  
27 ~~location, including temporary visit and practice locations. Any subsequent~~  
28 ~~change of regular office location or temporary visit and practice locations~~  
29 ~~shall be provided by certified mail to the board within ten days of the~~  
30 ~~change ADDRESSES OF ALL PERMANENT AND EXTENDED TEMPORARY LOCATIONS IN WHICH~~  
31 ~~THE LICENSEE PRACTICES AND THE LICENSEE'S OFFICE TELEPHONE NUMBERS, MAILING~~  
32 ~~ADDRESS AND RESIDENCE ADDRESS. Any notice required to be given by the board~~  
33 ~~to any doctor of optometry may A LICENSEE SHALL be given SENT by mail to his~~  
34 ~~THE LICENSEE'S most current regular registered place of practice as MAILING~~  
35 ~~ADDRESS shown on the records of the board. If an optometrist does not have~~  
36 ~~a practice location he shall notify The board of his current MAY ATTEMPT TO~~  
37 ~~GIVE OR SERVE NOTICE AT ANY OTHER ADDRESS OR LOCATION ON FILE WITH THE BOARD~~  
38 ~~IF SERVICE TO THE MAILING ADDRESS IS UNSUCCESSFUL. SERVICE OF A REQUIRED~~  
39 ~~NOTICE IS COMPLETE ON THE DATE OF MAILING TO THE LICENSEE'S mailing address.~~

40 B. The board shall maintain a current registry file of doctors of  
41 ~~optometry together with practice locations which OF EACH LICENSEE'S NAME,~~  
42 ~~OFFICE LOCATIONS AND MAILING ADDRESS. THE REGISTRY is open to the public.~~

43 C. EACH LICENSEE SHALL GIVE WRITTEN NOTICE TO THE BOARD WITHIN TEN  
44 DAYS FOLLOWING EACH CHANGE IN THE LICENSEE'S RESIDENCE ADDRESS, MAILING  
45 ADDRESS, OFFICE LOCATION OR OFFICE TELEPHONE NUMBER.

1       Sec. 13. Section 32-1743, Arizona Revised Statutes, is amended to  
2 read:

3       32-1743. Grounds for censure, civil penalty, probation,  
4               suspension, revocation, denial or renewal of license

5       After notice and a hearing the board in its discretion may censure,  
6 impose a civil penalty, prescribe probation, suspend or revoke the license  
7 of a doctor of optometry or refuse to issue or renew a license, certificate  
8 or registration for any of the following reasons:

- 9       1. Conviction of a felony or any offense involving moral turpitude.
- 10       2. Procuring or attempting to procure a license to practice optometry  
11 or a certificate to use pharmaceutical agents by fraud, deceit,  
12 misrepresentation or knowingly taking advantage of the mistake of another  
13 person or agency.
- 14       3. Conduct likely to deceive or defraud the public.
- 15       4. Unprofessional conduct.
- 16       5. Employment of a solicitor to solicit business or soliciting from  
17 house to house or person to person.
- 18       6. Obtaining a fee or compensation by fraud or misrepresentation.
- 19       7. Employment of a person to engage in the practice of the profession  
20 of optometry who does not hold a license to practice the profession of  
21 optometry in this state.
- 22       8. Using any device to evade or defeat the provisions of this chapter,  
23 such as a profit sharing plan or partnership with a person not licensed to  
24 practice the profession of optometry in this state.
- 25       9. The practice of the profession of optometry under a false or  
26 assumed name.
- 27       10. Violation of any provision of this chapter.
- 28       11. Violation of any of the rules adopted by the board pursuant to this  
29 chapter.
- 30       12. Any violation of any statutes, laws or rules regulating the  
31 practice of optometry IN THIS STATE OR ANY OTHER JURISDICTION IN THE UNITED  
32 STATES.
- 33       13. Providing any controlled substance or pharmaceutical agent not  
34 authorized by this chapter or providing any controlled substance or  
35 prescription-only drug for other than accepted therapeutic purposes for  
36 diagnosis and treatment of conditions of the human eye and its adnexa.
- 37       14. Gross malpractice or repeated acts constituting malpractice.
- 38       15. FAILING TO MAINTAIN OR SUBMIT RECORDS AS REQUIRED BY THIS CHAPTER.

39       Sec. 14. Section 32-1744, Arizona Revised Statutes, is amended to  
40 read:

41       32-1744. Board investigations; duty to report violations;  
42               hearing; decision of board; informal settlement  
43               conference

44       A. The board on its own motion shall investigate any evidence which  
45 THAT appears to show that a licensee may be guilty of a violation of section

1 32-1743. Any person may report to the board information the person may have  
2 which THAT appears to show that a licensee may be guilty of unprofessional  
3 conduct or of practice without regard for the safety and welfare of the  
4 public. A person who reports or provides information to the board in good  
5 faith is not subject to civil damages as a result, and the name of the person  
6 reporting shall not be disclosed unless the information is necessary to  
7 conduct an investigation or is essential to disciplinary proceedings  
8 conducted pursuant to this section.

9 B. Except as provided in subsection D- E of this section, if in the  
10 opinion of the board it appears that information provided under subsection  
11 A of this section may be accurate and a violation of this chapter, the board  
12 shall request an informal interview with the licensee before proceeding to  
13 a formal hearing. If the licensee refuses an invitation for an informal  
14 interview, or if the licensee accepts the invitation and if the results of  
15 the interview indicate suspension or revocation of license may be in order,  
16 a complaint shall be issued and a formal hearing held pursuant to title 41,  
17 chapter 6, article 10. If at the informal interview the board finds the  
18 information provided under subsection A of this section is accurate but not  
19 of sufficient seriousness to merit suspension exceeding thirty days or  
20 revocation of the license, it may take any or all of the following actions:

- 21 1. Issue a decree of censure or written reprimand.
- 22 2. Fix a period and terms of probation best adapted to protect the  
23 public health and safety and rehabilitate the licensee. Probation may  
24 include a requirement for a refund of fees and charges to professional  
25 services clients resulting from services performed in violation of this  
26 chapter or rules adopted pursuant to this chapter, restriction of a license  
27 to practice or temporary suspension not to exceed thirty days. Failure to  
28 comply with probation is cause for filing a complaint and holding a formal  
29 hearing pursuant to title 41, chapter 6, article 10.
- 30 3. Impose a civil penalty of not more than one thousand dollars for  
31 each violation of this chapter.

32 C. AT LEAST TEN BUSINESS DAYS BEFORE THE INFORMAL INTERVIEW CONDUCTED  
33 PURSUANT TO THIS SECTION, AT THE LICENSEE'S REQUEST, THE BOARD SHALL PROVIDE  
34 THE LICENSEE OR THE LICENSEE'S ATTORNEY WITH THE FOLLOWING INFORMATION:

- 35 1. ANY REVIEW CONDUCTED BY AN EXPERT OR CONSULTANT WHO PROVIDED AN  
36 EVALUATION OF OR OPINION ON THE ALLEGATIONS.
- 37 2. ANY PATIENT RECORDS OBTAINED BY THE BOARD FROM OTHER HEALTH CARE  
38 PROVIDERS.
- 39 3. THE RESULTS OF ANY EVALUATION OR TEST OF THE LICENSEE CONDUCTED AT  
40 THE BOARD'S DIRECTION.
- 41 4. ANY OTHER FACTUAL INFORMATION THAT THE BOARD WILL USE IN MAKING ITS  
42 DETERMINATION.

43 ~~C.~~ D. If the board determines that a reasonable basis exists to  
44 believe that a violation of this chapter or rules adopted pursuant to this  
45 chapter has occurred and the violation is not sufficiently serious to warrant

1 disciplinary action, it may send a letter of concern to the licensee. The  
2 letter of concern shall advise the licensee of the possible violation and the  
3 board's decision not to initiate proceedings. If violations occur after the  
4 board sends a letter of concern, the board may initiate proceedings on all  
5 violations, including the violation which THAT was the subject of the letter  
6 of concern.

7       D. E. If in the opinion of the board it appears that information  
8 provided under subsection A of this section may be accurate, the board may  
9 issue a complaint and hold a formal hearing pursuant to title 41, chapter 6,  
10 article 10 without first holding an informal interview if the probable  
11 violation involves one or more of the following:

- 12           1. Gross negligence.
- 13           2. Fraud, forgery, unsworn falsification, false swearing or perjury.
- 14           3. Three or more repeated offenses.
- 15           4. Conviction of a felony.
- 16           5. Conviction of an offense involving moral turpitude.
- 17           6. Incompetence.
- 18           7. Failing to comply with a board order or consent agreement.
- 19           8. Wilfully and without legal justification failing to furnish in a  
20 timely manner information necessary for the board to conduct an investigation  
21 under this chapter which THAT has been requested or subpoenaed by the board.

22       ~~E. F. If in the opinion of the board it appears that a charge may be~~  
23 ~~accurate and of sufficient seriousness, The board shall serve on the licensee~~  
24 ~~a summons and complaint~~ NOTICE fully setting forth the conduct or inability  
25 concerned and returnable at a hearing to be held before the board or an  
26 administrative law judge in not less than thirty days, stating the time and  
27 place of the hearing.

28       ~~F. G. The board shall~~ MAY require such A mental and physical  
29 examination and make such AN investigation, including, if necessary, the  
30 issuance of subpoenas, the appointment of advisory committees, the employment  
31 of expert witnesses, the taking of depositions or otherwise, as may be  
32 required fully to inform itself with respect to such THE complaint.

33       H. A PERSON MAY FILE A MOTION WITH THE BOARD FOR AN EXPEDITED HEARING  
34 PURSUANT TO SECTION 41-1092.05.

35       ~~G. I. If the licensee wishes to be present at the hearing in person~~  
36 or by representation, or both, the licensee shall file with the board an  
37 answer to the charges in the complaint. The answer shall be in writing,  
38 verified under oath and filed within twenty days after service of the summons  
39 and complaint.

40       ~~H. J. At the hearing held in compliance with subsection E- F of this~~  
41 section, a licensee may be present in person together with any counsel and  
42 witnesses the licensee chooses.

43       ~~I. K. The board shall issue subpoenas for such witnesses as it may~~  
44 need and, at the respondent's expense, for such witnesses as the respondent  
45 may request. ~~A person failing to obey a subpoena shall be certified by the~~



1 ~~board to the superior court in the county in which service was made, and~~  
2 ~~proceedings shall be had for contempt. ALL PROVISIONS OF LAW COMPELLING A~~  
3 ~~PERSON UNDER SUBPOENA TO TESTIFY ARE APPLICABLE TO A HEARING HELD PURSUANT~~  
4 ~~TO THIS SECTION.~~

5 ~~J. Service of the summons and complaint shall be as provided for~~  
6 ~~service of the summons and complaint in civil cases.~~

7 ~~K. Service of subpoenas for witnesses shall be as provided by law for~~  
8 ~~the service of subpoenas generally.~~

9 L. THE BOARD SHALL SERVE EVERY NOTICE OR DECISION UNDER THIS ARTICLE  
10 BY ANY METHOD REASONABLY CALCULATED TO EFFECT ACTUAL NOTICE ON THE BOARD AND  
11 EVERY OTHER PARTY TO THE ACTION TO THE PARTY'S LAST ADDRESS OF RECORD WITH  
12 THE BOARD. EACH PARTY SHALL INFORM THE BOARD OF ANY CHANGE OF ADDRESS WITHIN  
13 FIVE DAYS AFTER THE CHANGE.

14 ~~L.~~ M. A licensee who, after a hearing, is found to be guilty by the  
15 board of a violation of this chapter is subject to censure, probation or  
16 civil penalty as provided in subsection B of this section, suspension of  
17 license or revocation of license, or any combination of these, and for the  
18 period of time or permanently and under the conditions the board deems  
19 appropriate for the protection of the public health and safety and just in  
20 the circumstances. THE BOARD MAY CHARGE THE COSTS OF FORMAL HEARINGS TO THE  
21 LICENSEE WHO IS IN VIOLATION OF THIS CHAPTER.

22 N. THE BOARD SHALL ISSUE A WRITTEN DECISION WITHIN TWENTY DAYS AFTER  
23 THE HEARING IS CONCLUDED. THE WRITTEN DECISION SHALL CONTAIN A CONCISE  
24 EXPLANATION OF THE REASONS SUPPORTING THE DECISION. THE BOARD SHALL SERVE  
25 A COPY OF THE DECISION ON THE LICENSEE. ON THE LICENSEE'S REQUEST, THE BOARD  
26 SHALL ALSO TRANSMIT TO THE LICENSEE THE RECORD OF THE HEARING.

27 ~~M. Patient records, including clinical records, medical reports,~~  
28 ~~laboratory statements and reports, any file, film or other report or oral~~  
29 ~~statement relating to diagnostic findings or treatment of patients, any~~  
30 ~~information from which a patient or a patient's family might be identified,~~  
31 ~~information received and records kept by the board as a result of the~~  
32 ~~investigation procedure outlined in this chapter or investigation files of~~  
33 ~~any investigation which is still pending are not available to the public.~~

34 O. EXCEPT AS PROVIDED IN THIS SUBSECTION, ALL MATERIALS, DOCUMENTS AND  
35 EVIDENCE ASSOCIATED WITH A PENDING OR RESOLVED COMPLAINT OR INVESTIGATION ARE  
36 CONFIDENTIAL AND ARE NOT PUBLIC RECORDS. THE FOLLOWING MATERIALS, DOCUMENTS  
37 AND EVIDENCE ARE NOT CONFIDENTIAL AND ARE PUBLIC RECORDS IF THEY ARE RELATED  
38 TO RESOLVED COMPLAINTS AND COMPLY WITH SUBSECTION A OF THIS SECTION:

- 39 1. THE COMPLAINT.
- 40 2. THE RESPONSE AND ANY REBUTTAL STATEMENTS SUBMITTED BY THE LICENSEE.
- 41 3. WRITTEN OR RECORDED BOARD DISCUSSIONS OF THE COMPLAINT.
- 42 4. WRITTEN REPORTS OF AN INVESTIGATION OF A COMPLAINT.
- 43 5. DISPOSITION OF THE COMPLAINT, INCLUDING ANY WRITTEN COMMENTS OF THE  
44 BOARD.

1 N. P. This section or any other law making communications between a  
2 licensee and the licensee's patient a privileged communication does not apply  
3 to investigations or proceedings conducted pursuant to this chapter. The  
4 board and its employees, agents and representatives shall keep in confidence  
5 the names of any patients whose records are reviewed during the course of  
6 investigations and proceedings pursuant to this chapter.

7 ~~O. The board and a licensee who is the subject of a disciplinary~~  
8 ~~action may informally settle the disciplinary action either before or after~~  
9 ~~initiation of hearing procedures.~~

10 P. Q. Any action of the board shall be included in the minutes of the  
11 meeting at which the action is taken, including any determination by the  
12 board not to proceed under this section. The person reporting information  
13 to the board shall receive a copy of any final decision.

14 Q. R. PURSUANT TO SECTIONS 35-146 AND 35-147, THE BOARD SHALL DEPOSIT  
15 civil penalties collected pursuant to this chapter shall be deposited in the  
16 state general fund.

17 S. A LICENSEE WHO IS THE SUBJECT OF A DISCIPLINARY ACTION MAY REQUEST  
18 AN INFORMAL SETTLEMENT CONFERENCE. THE LICENSEE MUST SUBMIT A REQUEST FOR  
19 AN INFORMAL SETTLEMENT CONFERENCE TO THE BOARD IN WRITING. THE BOARD SHALL  
20 HOLD AN INFORMAL SETTLEMENT CONFERENCE WITHIN FIFTEEN DAYS AFTER IT RECEIVES  
21 A REQUEST TO DO SO FROM THE LICENSEE. ONLY A PERSON WITH THE AUTHORITY TO  
22 ACT ON BEHALF OF THE BOARD MAY REPRESENT THE BOARD AT THE INFORMAL SETTLEMENT  
23 CONFERENCE. THE BOARD REPRESENTATIVE SHALL NOTIFY THE LICENSEE IN WRITING  
24 THAT ANY WRITTEN OR ORAL STATEMENT MADE BY THE LICENSEE AT THE INFORMAL  
25 SETTLEMENT CONFERENCE, INCLUDING STATEMENTS FOR THE PURPOSE OF SETTLEMENT  
26 NEGOTIATIONS, ARE INADMISSIBLE IN ANY SUBSEQUENT HEARING. A LICENSEE WHO  
27 PARTICIPATES IN AN INFORMAL SETTLEMENT CONFERENCE WAIVES THE RIGHT TO OBJECT  
28 TO THE PARTICIPATION OF THE BOARD REPRESENTATIVE IN THE FINAL ADMINISTRATIVE  
29 DECISION.

30 T. A PERSON WHO OBTAINS INFORMATION FROM THE BOARD PURSUANT TO  
31 SUBSECTION C OF THIS SECTION SHALL NOT RELEASE IT TO ANY OTHER PERSON OR  
32 ENTITY OR USE IT IN ANY PROCEEDING OR ACTION EXCEPT THE INFORMAL INTERVIEW  
33 AND ANY ADMINISTRATIVE PROCEEDING OR APPEALS RELATED TO THE INFORMAL  
34 INTERVIEW. THE BOARD MAY CHARGE THE LICENSEE OR THE LICENSEE'S ATTORNEY FOR  
35 THE COST OF THE INFORMATION LISTED IN SUBSECTION C OF THIS SECTION UP TO THE  
36 FEE FOR MAKING A COPY AS PRESCRIBED BY SECTION 12-284, SUBSECTION A.

37 Sec. 15. Title 32, chapter 16, article 3, Arizona Revised Statutes,  
38 is amended by adding section 32-1745, to read:

39 32-1745. Prehearing conferences; orders

40 A. ON THE WRITTEN REQUEST OF A LICENSEE, THE BOARD MAY SCHEDULE A  
41 PREHEARING CONFERENCE AT LEAST TEN DAYS BEFORE THE HEARING DATE SCHEDULED  
42 PURSUANT TO SECTION 32-1744. THE BOARD SHALL NOTIFY THE LICENSEE WHO  
43 REQUESTED A PREHEARING CONFERENCE OF ITS DECISION WITHIN FIVE BUSINESS DAYS.  
44 IF THE BOARD AGREES TO HOLD A PREHEARING CONFERENCE THE NOTIFICATION SHALL  
45 INCLUDE THE DATE, TIME AND PLACE OF THE CONFERENCE.

1 B. TO PROMOTE THE ORDERLY AND PROMPT CONDUCT OF THE HEARING, THE BOARD  
2 MAY USE A PREHEARING CONFERENCE FOR THE PURPOSES PRESCRIBED IN SECTION  
3 41-1092.05, SUBSECTION F AND FOR ANY OTHER MATTER RELATED TO THE HEARING.

4 C. THE BOARD MAY CONDUCT ALL OR PART OF THE PREHEARING CONFERENCE BY  
5 ELECTRONIC MEANS IF EACH PARTY IN THE PREHEARING CONFERENCE CAN HEAR AND HAS  
6 AN OPPORTUNITY TO PARTICIPATE DURING THE ENTIRE CONFERENCE.

7 D. AFTER A PREHEARING CONFERENCE AND BEFORE THE HEARING, THE BOARD  
8 SHALL ENTER AN ORDER VERBALLY ON THE RECORD OR IN WRITING. THE ORDER SHALL  
9 STATE THE STIPULATIONS AND ADMISSIONS MADE, ACTIONS TAKEN AND OTHER MATTERS  
10 RESOLVED. THE BOARD SHALL MODIFY THIS ORDER ONLY TO PREVENT MANIFEST  
11 INJUSTICE, AS DETERMINED BY THE BOARD.

12 E. WHETHER OR NOT A PREHEARING CONFERENCE IS HELD, THE BOARD MAY ISSUE  
13 AN ORDER TO REGULATE THE CONDUCT OF THE HEARING AND TO LIMIT THE ISSUES TO  
14 THOSE RAISED IN THE PLEADINGS.

15 Sec. 16. Section 32-1746, Arizona Revised Statutes, is amended to  
16 read:

17 32-1746. Records; maintenance; confidentiality

18 A. A LICENSEE MUST ALLOW THE BOARD TO INSPECT PATIENT RECORDS DURING  
19 NORMAL BUSINESS HOURS. BEFORE A LICENSEE MAY CHANGE THE LOCATION OF PATIENT  
20 RECORDS, THE LICENSEE MUST FILE A SIGNED STATEMENT WITH THE BOARD THAT  
21 DISCLOSES THE NEW ADDRESS WHERE THE LICENSEE WILL MAINTAIN THE RECORDS.

22 B. All patient records, examination materials, records of examination  
23 grading and performance and transcripts of educational institutions  
24 concerning applicants and licensees are confidential and ARE not public  
25 records.

26 C. THE BOARD SHALL PROVIDE TO THE LICENSEE AND THE LICENSEE'S ATTORNEY  
27 THE INFORMATION LISTED IN SECTION 32-1744, SUBSECTION C. A PERSON WHO  
28 OBTAINS INFORMATION FROM THE BOARD PURSUANT TO THIS SUBSECTION AND SECTION  
29 32-1744, SUBSECTION C SHALL NOT RELEASE IT TO ANY OTHER PERSON OR ENTITY OR  
30 USE IT IN ANY PROCEEDING OR ACTION EXCEPT THE INFORMAL INTERVIEW AND ANY  
31 ADMINISTRATIVE PROCEEDINGS OR APPEALS RELATED TO THE INFORMAL INTERVIEW.

32 Sec. 17. Section 32-1747, Arizona Revised Statutes, is amended to  
33 read:

34 32-1747. Right to examine and copy evidence

35 In connection with the investigation by the board on its own motion or  
36 as the result of information received pursuant to section 32-1744, the board  
37 or its duly authorized agents or employees ~~shall at all reasonable times have~~  
38 ~~access to, for the purpose of examination, and the right to~~ MAY EXAMINE AND  
39 copy, DURING NORMAL BUSINESS HOURS any documents, reports, records or any  
40 other physical evidence of any person being investigated, or the reports, THE  
41 records and any other documents maintained by and in possession of any  
42 hospital, clinic, physician's office, laboratory, pharmacy or any other  
43 public or private agency, and any health care institution as defined in  
44 section 36-401, if such THE documents, reports, records or evidence relate  
45 RELATES to competence, unprofessional conduct or the mental or physical

ability of a doctor of optometry LICENSEE to safely practice the profession of optometry.

Sec. 18. Section 32-1751, Arizona Revised Statutes, is amended to read:

32-1751. Cease and desist orders; injunctive relief

~~The attorney general, the board of optometry or the county attorney of a county where a person engaged in the practice of the profession of optometry either without having first obtained a license or after his a license had been suspended or revoked, may, in accordance with the laws governing injunctions, maintain in the name of this state an action in the county in which the offense is committed to enjoin the person until a license is secured or restored.~~

A. IN ADDITION TO ALL OTHER REMEDIES, IF AFTER CONDUCTING AN INVESTIGATION AND FOR GOOD CAUSE SHOWN IT APPEARS TO THE BOARD, EITHER ON COMPLAINT OR OTHERWISE, THAT ANY PERSON HAS ENGAGED IN OR IS ENGAGING IN AN ACT, PRACTICE OR TRANSACTION THAT VIOLATES THIS CHAPTER OR ANY RULE OR ORDER OF THE BOARD, THE BOARD MAY DO EITHER OF THE FOLLOWING:

1. SERVE ON THE PERSON BY CERTIFIED MAIL OR PERSONAL SERVICE A CEASE AND DESIST ORDER REQUIRING THE PERSON TO CEASE AND DESIST IMMEDIATELY, ON RECEIPT OF THE NOTICE, FROM ENGAGING IN THE ACT, PRACTICE OR TRANSACTION. IF THE BOARD ISSUES A CEASE AND DESIST ORDER IT SHALL CONDUCT A HEARING WITHIN THIRTY DAYS TO DETERMINE WHETHER THE ORDER SHOULD BE CONTINUED OR ELIMINATED AND TO DETERMINE WHETHER THE BOARD SHOULD TAKE OTHER APPROPRIATE ACTION.

2. THROUGH THE ATTORNEY GENERAL OR THE COUNTY ATTORNEY OF THE COUNTY IN WHICH THE VIOLATION IS ALLEGED TO HAVE OCCURRED APPLY TO THE SUPERIOR COURT IN THAT COUNTY FOR AN INJUNCTION RESTRAINING THAT PERSON FROM ENGAGING IN THE VIOLATION.

B. THE COURT SHALL ISSUE A TEMPORARY RESTRAINING ORDER, A PRELIMINARY INJUNCTION OR A PERMANENT INJUNCTION WITHOUT REQUIRING THE BOARD TO POST A BOND.

C. SERVICE OF PROCESS MAY BE ON THE DEFENDANT IN ANY COUNTY OF THIS STATE WHERE THE DEFENDANT IS FOUND.

D. Violation of an injunction is punishable as contempt of court.

E. An injunction does not relieve a person practicing the profession of optometry without a license from criminal prosecution but is in addition to any remedy provided for the criminal prosecution.

Sec. 19. Laws 1999, first special session, chapter 1, section 71 is amended to read:

Sec. 71. BOARD OF OPTOMETRY

	<u>1999-00</u>	<u>2000-01</u>
FTE positions	2.0	2.0
Lump sum appropriation	\$ 132,300**	\$ 128,300
Fund sources:		
Board of optometry fund	\$ 132,300	\$ 128,300

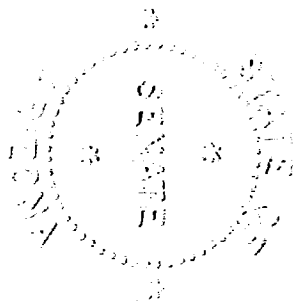
1 OF THE \$128,300 LUMP SUM APPROPRIATION IN FISCAL YEAR 2000-2001, \$8,100  
2 IS EXEMPT FROM THE PROVISIONS OF SECTION 35-190, ARIZONA REVISED STATUTES,  
3 RELATING TO LAPSING OF APPROPRIATIONS UNTIL JUNE 30, 2002.

4 Sec. 20. Retroactivity

5 Section 19 of this act is effective retroactively to June 30, 2001.

APPROVED BY THE GOVERNOR MAY 4, 2001.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 4, 2001.



ON RECONSIDERATION

Passed the House February 27, 2001,

Passed the Senate April 26, 2001,

by the following vote: 57 Ayes,

by the following vote: 28 Ayes,

3 Nays, 0 Not Voting

0 Nays, 2 Not Voting

Article 14, Section 22

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary to the Governor

Approved this \_\_\_\_\_ day of

\_\_\_\_\_, 20\_\_\_\_,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of Arizona

H.B. 2190

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State

FAILED

Passed the House February 19, 2001,

by the following vote: 33 Ayes,

25 Nays, 2 Not Voting  
*with Article 18, Section 22*

Speaker of the House

*Norman L. Moore*  
Chief Clerk of the House

Passed the Senate \_\_\_\_\_, 20\_\_\_\_,

by the following vote: \_\_\_\_\_ Ayes,

\_\_\_\_\_, Nays, \_\_\_\_\_ Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

Secretary to the Governor

Approved this \_\_\_\_\_ day of

\_\_\_\_\_, 20\_\_\_\_,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

Governor of Arizona

H.B. 2190

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

Secretary of State

HOUSE CONCURS IN SENATE  
AMENDMENTS AND FINAL PASSAGE

April 30, 2001,

by the following vote: 54 Ayes,

0 Nays, 6 Not Voting

[Signature]  
Speaker of the House  
Cheeryl Laube  
Assistant Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

1 day of May, 2001,

at 9:00 o'clock A M.

[Signature]  
Secretary to the Governor

Approved this 4<sup>th</sup> day of

May, 2001,

at 10:50 o'clock A M.

[Signature]  
Governor of Arizona

H.B. 2190

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 04 day of May, 2001,

at 4:34 o'clock P M.

[Signature]  
Secretary of State